

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	Docket Number (Optional) SUNMP554
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First named inventor: J. Duane Northcutt

Application No.: 09/063,335

Art Unit: 2154

Filed: April 20, 1998

Examiner: VU, V.

Title: METHOD AND APPARATUS FOR PROVIDING A VIRTUAL DESKTOP SYSTEM ARCHITECTURE

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

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OCT 14 2005  
**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

10/12/2005 ZJUHA1 00000038 09063335 1500.00 0P  
01 FC:1453



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

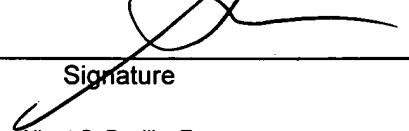
3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

 _____ Signature	<u>Oct. 5, 2005</u> _____ Date
Albert S. Penilla, Esq. _____ Typed or printed name	39,487 _____ Registration Number, if applicable
Martine Penilla & Gencarella, LLP _____ Address	(408) 774-6903 _____ Telephone Number

710 Lakeway Drive, Suite 200, Sunnyvale, CA 94085  
\_\_\_\_\_  
Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☒ Other: RCE, Statement of Facts Supporting Unintentional Delay

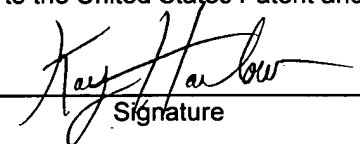
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

October 5, 2005  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

Kay Harlow  
\_\_\_\_\_  
Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the patent application of

Northcutt et al.

Application No: 09/063,335

Filing Date: April 20, 1998

For: METHOD AND APPARATUS FOR  
PROVIDING A VIRTUAL DESKTOP  
SYSTEM ARCHITECTURE



Docket No. SUNMP554

Group Art Unit: 2154

Examiner: V. Vu

Date: October 5, 2005

*Handwritten signature/initials*

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being sent via facsimile to  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
on October 5, 2005.

Signed: \_\_\_\_\_

Kay Harlow

*Handwritten signature: Kay Harlow*

**TRANSMITTAL OF THE STATEMENT FOR REVIVAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Commissioner for Patents  
Alexandria, VA 22313-1450

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OCT 14 2005

Sir:

**OFFICE OF PETITIONS**

Applicants hereby attach the following documents:

- Request for Continued Examination (RCE) Transmittal;
- Amendment;
- Statement of Facts Supporting a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b); and
- Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b).

Applicants respectfully request these documents be made of record.

Please send all correspondence to:

**Albert S. Penilla, Esq.**  
Martine Penilla & Gencarella, LLP  
710 Lakeway Drive, #200  
Sunnyvale, CA 94085  
Customer No. 32291

A check in the amount of \$2,290.00 is being submitted to cover the filing fees for these documents. The Commissioner is authorized to charge any other fees which may be due, or any overpayments to Deposit Account 50-0805 (SUNMP554). If the Commissioner has any questions concerning these documents, please contact the undersigned at the telephone number set forth below.

Respectfully submitted,  
MARTINE PENILLA & GENCARELLA, LLP

Albert S. Penilla, Esq.  
Reg. No. 39,487

710 Lakeway Drive, Suite 200  
Sunnyvale, CA 94085  
(408) 774-6903

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL (37 CFR 1.8)**Applicant(s): **Northcutt et al.**

Docket No.

**SUNMP554**

Application No.

**09/063,335**

Filing Date

**April 20, 1998**

Examiner

**VU, V.**

Customer No.

**32291**

Group Art Unit

**21545**Invention: **METHOD AND APPARATUS FOR PROVIDING A VIRTUAL DESKTOP SYSTEM ARCHITECTURE**

I hereby certify that this **RCE, Amendment, Petition for Revival, and Statement of Facts**  
(Identify type of correspondence)

is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on  
**October 5, 2005**  
(Date)

**Kay Harlow**

(Typed or Printed Name of Person Mailing Correspondence)

(Signature of Person Mailing Correspondence)

**RECEIVED****OCT 14 2005****OFFICE OF PETITIONS****Note: Each paper must have its own certificate of mailing.**

Request for Continued Examination (RCE) Transmittal (1 page, in duplicate)  
Amendment (6 pages)  
Statement of Facts Supporting a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (5 pages)  
Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (PTO/SB/64), (2 pages)  
Check No. 15074 for \$2,290.00



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: ) Attorney Docket No: SUNMP554  
)  
NORTHCUTT, et al. ) Examiner: VU, V.  
)  
Application No: 09/063,335 ) Group Art Unit: 2154  
)  
Filed: April 20, 1998 ) Date: October 5, 2005  
)  
For: METHOD AND APPARATUS FOR )  
PROVIDING A VIRTUAL DESKTOP SYSTEM )  
ARCHITECTURE )

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on October 5, 2005.

Signed: \_\_\_\_\_

Kay Harlow

STATEMENT OF FACTS SUPPORTING A PETITION FOR  
REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

Mail Stop Petition  
Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**  
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Dear Sir:

The following is a review of the original case file for U.S. Patent Application No. 09/063,335 and a review of the factual timeline of events that are relevant to a new Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. §1.137(b). The scope of this review includes documents and other related materials that were held in the original case file. The original case file, as noted below, was transferred to the undersigned in an abandoned state.

On April 4, 1998, a patent application titled "METHOD AND APPARATUS FOR PROVIDING A VIRTUAL DESTOP SYSTEM ARCHITECTURE" (U.S. Patent Application No. 09/063,335) was filed with the U.S. Patent & Trademark Office by the law firm Hecker & Harriman on behalf of Sun Microsystems, Inc. (the assignee).

On September 18, 2000, Sun Microsystems, Inc. directed the transfer of the case file all responsibilities for the 09/063,335 application from Hecker & Harriman to the Coudert Brothers law firm.

On October 26, 2000, the U.S. Patent & Trademark Office mailed a final Office Action to the law firm of Hecker & Harriman. Gary A. Hecker, the attorney of record at Hecker & Harriman, indicated in a subsequent letter sent July 18, 2001 to the law firm Coudert Brothers that his firm never received this final Office Action from the U.S. Patent & Trademark Office. The case file for the 09/063,335 application was in the process of being transferred from Hecker & Harriman to Coudert Brothers between the period of October 6, 2000 and November 13, 2000.

On December 12, 2000, the U.S. Patent & Trademark Office acknowledged a change in Power of Attorney and correspondence address for the 09/063,335 application, naming Coudert Brothers as the new attorneys for the application.

On July 9, 2001, the U.S. Patent & Trademark Office sent a Notice of Abandonment for the 09/063,335 application to Coudert Brothers indicating that the abandonment was for failure to respond to the October 26, 2000 final Office Action sent to the Hecker Law Group.

On September 21, 2001, Coudert Brothers filed a **Petition for Revival of An Application** under 37 C.F.R. §1.137(b) and a response to the October 26, 2000 final Office Action with the U.S. Patent & Trademark Office without concurrently filing a Request for Continued Examination as required under 37 C.F.R. §1.137(b).

On March 12, 2002, O'Melveny & Myers, LLP mailed a Revocation/ Appointment of Power Attorney and Change of Correspondence Address letter to the U.S. Patent & Trademark Office, naming them as the new attorneys for the application. There was no acknowledgment of receipt of the letter by the U.S. Patent & Trademark Office.

On September 11, 2002 the U.S. Patent & Trademark Office mailed their decision in regards to the Petition for Revival of An Application filed on September 21, 2001. The decision was addressed to Coudert Brothers whom no longer represented Sun Microsystems, Inc. on the 09/063,335 application. There are no documents in the case file which indicate that Coudert Brothers received or forwarded the decision letter to O'Melveny & Myers. Further, the undersigned was not aware of the decision to deny the revival until after a Power of Attorney was accepted by the U.S. Patent & Trademark Office for the undersigned in April 13, 2005. On August 29, 2005, the undersigned obtained a copy of the decision from the Examiner who faxed it to the undersigned.

On June 16, 2004, O'Melveny & Myers transferred over 200 patent case files to the current firm of record, Martine, Penilla & Gencarella, LLP. Included in the transfer was the case file for the 09/063,335 application.

On September 20, 2004, Martine, Penilla & Gencarella contacted Sun Microsystems, Inc. to request instructions on what to do with the 09/063,335 application, as it appeared to be abandoned.

On December 20, 2004, Martine, Penilla & Gencarella was authorized by Sun Microsystems, Inc. to investigate the status and file a Change in Power of Attorney (naming MPG as the new attorneys on the case) request with the U.S. Patent & Trademark Office for the 09/063,335 application. Martine, Penilla & Gencarella never received a response from the U.S. Patent & Trademark Office regarding the request.

On March 18, 2005, Martine, Penilla & Gencarella filed another Revocation in Prior Powers and Change in Power of Attorney request with the U.S. Patent & Trademark Office asking for expedited review.

On April 13, 2005, Martine, Penilla & Gencarella received a Notice of Acceptance of Power of Attorney from the U.S. Patent & Trademark Office. Between April 2005 and August of 2005, the responsibilities for the 09/063,335 application were transitioned from one Sun Microsystems, Inc. responsible attorney to another at Sun Microsystems, Inc attorney.

On August 24, 2005, Martine, Penilla & Gencarella made an inquiry with the Patent Application Information Retrieval System to check on the status of the 09/063,335 application. The application was determined to have been abandoned as of July 9, 2001 and at this point, the undersigned learned that the Petition to Revive was denied as of September 11, 2002.



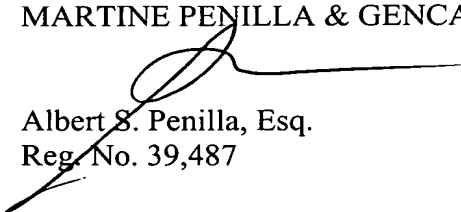
On August 25, 2005, Martine, Penilla & Gencarella contacted Examiner Vu (Art Unit 2154) to obtain a copy of the petition decision of September 11, 2002 (as noted above).

On August 29, 2005, Martine, Penilla & Gencarella received a faxed copy of the petition decision from the U.S Patent & Trademark Office. It was determined that the petition failed due to the failure by Coudert Brothers to file a Request for Continued Examination with the petition. This decision was communicated to Sun Microsystems, Inc. on the same day.

On September 21, 2005, Sun Microsystems, Inc. instructed Martine, Penilla & Gencarella to revive the 09/063,335 application.

The above statement of facts have been provided to show that there was no intent to abandon the 09/063,335 application. Accordingly, this statement of facts supports the reason why the Office should revive the application under 37 C.F.R. §1.137(b).

Respectfully submitted,  
MARTINE PENILLA & GENCARELLA, LLP



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